

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested. To this end, petition is hereby made for a (3) *three-month* extension of time to respond to the outstanding Final Office Action of **January 14, 2010**. In addition, a request for continued examination of this application is hereby made, a more formal version of this request being filed with this Amendment After Final Rejection. Although the fees for the extension of time and the request for continued examination are being submitted with this Amendment, the Commissioner is hereby authorized to charge any fee that should have been filed at this time to our Deposit Account No. 14-1140.

Claims 20 – 26, 28 – 35 and 37 – 47 are pending in the application. Upon entry of this Amendment, dependent claims 21 and 23 will be cancelled and independent claim 20 and dependent claims 22, 24, 28, 41 and 44 will be amended to clarify the claimed invention.

A. The Language Of Claims 28 And 44 Is Clearly Understood In View Of Fig. 7 Of The Present Application And The Amendments To Such Claims

In the outstanding Final Office Action, the Examiner rejected claims 28 and 44 under 35 U.S.C. §112, second paragraph, as being indefinite, contending that certain language in these claims is not clearly understood, to wit:

The language, "each reinforced panel comprising two outer laminations and a reinforced inner structure" is not clearly understood. The specification does not further clarify either. Is the applicant attempting to further claim the L-shaped members as outer laminations? For examination purposes outer laminations will be considered the same as L-shaped members.

1/14/2011 Final Office Action, p. 2, para.2 (Emphasis added).

Although the Examiner contends that specification of the present application does not help to clarify the quoted language of claims 28 and 44, a review of the specification reveals that,

in fact, this language is used in describing the construction of the panel body of the embodiment of the claimed invention depicted in Figure 7 of the present application, to wit:

The panel body is laminated and includes outer laminations 66 as is shown in Figure 7 and an inner lamination 65 in the form of a honey comb type cardboard member interposed between the outer laminations 66. The panel as well as honeycomb structure may also be made from plastic, wood, steel or any other suitable material.

Application, p. 8, lns. 8 – 12.

Notwithstanding the foregoing description of the construction of the panel body of the disclosed embodiment of the claimed invention, claims 28, 41 and 44 have been amended to clarify these claims. In view of the description of Figure 7 and the amendments to claims 28, 41 and 44, it is believed that the Examiner's §112 rejection of claims 28 and 44 should be withdrawn.

B. Dependent Claims 37 And 38 Further Limit The Subject Matter Of Independent Claim 20 By Describing Where Along The Edges Of A Panel Body The Elongate Tubular Members Are Located

In the outstanding Final Office Action, the Examiner also objected to claims 37 and 38 as being of improper dependent form for failing to further limit the subject matter of a claim 20, contending that claim 20 claims the tubular member on all edges. The Examiner's objection to claims 37 and 38 is respectfully traversed.

By this Amendment, independent claim 20 has been amended to, *inter alia*, clarify that there is an elongate tubular member along each of the edges of each panel body. This language, however, does not specifically describe where along the edges of a panel body the elongate tubular members are located. Claim 37 further describes the edge location of the tubular members by stating that the tubular members are provided on ends of the edges of a panel. Claim 38 further describes the edge location of the tubular members by stating that the tubular

members are provided on sides of the edges of a panel. Thus, it is respectfully submitted that claims 37 and 38 are proper dependent claims in that they further limit the subject matter of claim 20 from which they depend by explaining where on the edges the tubular members are provided. As such, it is believed that the Examiner's objection to claims 37 and 38 should now be withdrawn.

C. Claims 20 – 26, 28 – 35, and 37 – 47 Are Not Obvious Over The Cited Palley, Gourrierc, Huggett and Eby References

The Examiner further rejected claims 20 – 26, 28 – 35, and 37 – 47 under 35 U.S.C. §103(a) as being unpatentable over Palley (USPN 7,185,778) in view of Gourrierc (Netherland 1012498) and in view of Huggett (WO 02/46048) in view of Eby (USPN 3,405,835). The Examiner's rejection is respectfully traversed.

1. One Of Ordinary Skill In The Art Would Not Have Combined Palley And Gourrierc So That A Fork Lift Could Easily Pick Up Palley's Barrier Unit

For a claimed invention to be obvious over a combination of references there must be some reason as to why one of ordinary skill in the art would have combined the references, as argued by the Examiner, to produce the claimed invention. Here, the claims of the present application rejected under §103(a) are not obvious over the cited Palley and Gourrierc references because one of ordinary skill in the art would not have combined Palley and Gourrierc to allow a fork lift to easily pick up Palley's barrier unit, as argued by the Examiner.

In the Amendment filed November 12, 2010, independent claim 20 of the present application was amended to recite, *inter alia*, that the claimed collapsible container has a plurality of upper panels and a bottom panel, that each of the panels has a body and an elongate tubular member along all edges of the body, and that the bottom panel of the collapsible

container has a plurality of reinforced downwardly protruding supports secured to the bottom panel for raising up the collapsible container. In connection with this Amendment, the Applicant contended that neither of the cited Eby nor Palley references, either alone or in combination, disclosed or suggested, *inter alia*, a bottom panel with downwardly protruding supports secured to the bottom panel for raising up the collapsible container. By the present Amendment After Final Rejection, claim 20 has been further amended to clarify that the plurality of reinforced downwardly protruding supports are comprised of a plurality of panels.

In response to the November 12, 2010 amendment to claim 20 and Applicant's contention that Eby and Palley did not disclose or suggest a bottom panel with downwardly protruding supports secured to the bottom panel, the Examiner acknowledged in the outstanding Final Office Action that Palley did not disclose the claimed bottom panel and supports secured to the bottom panel, but argued that Gourriercé teaches the claimed "bottom panel (2) having a plurality of reinforced downwardly protruding supports (element 3 on cover) for raising up the bottom panel (2) and thereby the collapsible container," and that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to add the supports onto the bottom of a container like Palley as taught by Gourriercé in order to allow a fork lift to easily pick it up." 1/14/2011 Final Office Action, pp. 4 – 7, para. 5.

In making this argument, however, the Examiner failed to explain why one of ordinary skill in the art would have needed to secure panel supports (identified by the Examiner as element 3 of Gourriercé) to the bottom panel of Palley's blast resistant barrier units so that such units could be lifted by a fork lift.

Indeed, Palley addresses the issue of moving his barrier units by depicting in Figure 9 of his disclosure an "in-airport blast resistant container assembly 60" that is provided with caster 67

for mobility. Palley, col. 7, Ins. 62 – 64 and Fig. 9. Providing a barrier unit with casters, as disclosed by Palley in Figure 9 of his disclosure, would obviate the need to have such a unit lifted by a fork lift, presumably to be moved, as argued by the Examiner.

In addition, Palley also discloses that his barrier units are made using constraining bands of high strength and low weight, suggesting that the overall weight of these barrier units would not be such as to require them to be lifted by a fork lift. Palley, Abstract. But, if for some reason, a person of ordinary skill in the art would have wanted to provide for Palley's barrier units to be movable by a fork lift, that person could have the barrier units supported by one or more "pallets" which could be engaged by a fork lift, as evidenced by the readily observable wide spread use of "pallets" for supporting items intended to be moved by a fork lift. The use of pallets with fork lifts is an experience that a person of ordinary skill in the art would have had, and as such, there would have been no need for one of ordinary skill in the art to have thought of the use of panel supports secured to the bottom of Palley's blast resistant barrier units so that such units could be lifted by a fork lift.

2. One Of Ordinary Skill In The Art Would Not Have Combined Palley And Huggett To Make Palley's Barrier Unit From Recyclable Cardboard

To reject dependent claims 32 – 35, 40 and 45 – 47, the Examiner next argues a combination of Palley and Huggett, arguing that [i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to used the panel building structure as shown by Huggett to make the container of Palley in order to have a strong easily recyclable cardboard material, collapsible container. 1/14/2011 Final Office Action, p. 6, ln. 18, to p. 7, ln. 14 (Emphasis added).

In making this argument, however, the Examiner failed to explain why one of ordinary skill in the art would have needed to make the container of Palley using the cardboard disclosed by Hugget. Hugget already teaches the possibility of recycling his container made of cardboard paper. Hugget, p. 7, Ins. 6 – 7. Given this disclosure, the Examiner fails to explain what one of ordinary skill in the art would achieve by using cardboard to make Palley's container. Indeed, Palley does NOT disclose the possibility of recycling his container, and one of ordinary skill in the art would not have looked to make Palley container from cardboard because Palley's container is intended to be used to resist the possibility of explosions, as explained, for example, in Palley's Abstract:

The present invention relates to barrier units and to articles made therefrom. More particularly, this invention relates to various constraining bands of high strength and low weight for containing articles such as logs or containers. Most particularly, this invention relates to blast resistant container assemblies for receiving explosive articles and preventing or minimizing damage in the event of an explosion. These container assemblies have utility as containment and transport devices for hazardous materials such as gunpowder and explosives, e.g., bombs and grenades, particularly in aircraft where weight is an important consideration, and more particularly in the cargo holds and passenger cabins of the aircraft. They are also particularly useful to bomb squad personnel in combating terrorist and other threats.

Hugget, cover page Abstract.

Clearly, a person of ordinary skill in the art looking to contain explosions caused by “hazardous materials such as gunpowder and explosives, e.g., bombs and grenades,” would not look to cardboard to form a barrier unit to contain explosions. As such, contrary to the Examiner's contention, one of ordinary skill in the art would not have looked to combine Hugget with Palley.

3. Even Assuming, Arguendo, That The Examiner Properly Combined The Cited References, The Result Would Not Be The Claimed Collapsible Container

Even assuming, arguendo, that the Examiner properly combined the cited references, the result would not be the claimed collapsible container because not all of the limitations of independent claim 20 of the present application are disclosed or suggested by the cited references, either alone or in combination.

Independent claim 20 of the present application is directed to a collapsible container, which is comprised of a plurality of upper panels, and a bottom panel. Claim 20 has been amended to recite, inter alia, that each panel has a body and an elongate tubular member along each of the edges of the body; and that each tubular member has at least one cut-away section to form an interlocking formation that is an alternating tenon and mortise formation, with each mortise being shaped so that a tenon is received therein in an arrangement wherein the received tenon is not concentric with adjacent tenons, whereby an engagement member passing through the tenons has a more secure or friction fit therein.

Support for this latter amendment to claim 20 can be found at least at page 9, lines 12 – 14 of the present application, as originally filed. Support can also be found in now cancelled claim 23, as originally filed, which recited “*A collapsible container... wherein the mortises are shaped so that a tenon is received therein in an arrangement wherein the received tenon is substantially but not precisely axially aligned.*” Further support can be found in Figure 8 of the present application, which depicts two adjacent panels 12, wherein the mortises 7 and tenons 6 of the adjacent panels 12 are in an interlocking position. Figure 8 depicts a small misalignment between the top tubular member 26 and the side tubular member 26 of the adjacent panel. This misalignment can be seen where the reference numeral 26 indicates the tubular member.

None of the references cited by the Examiner discloses or suggests, either alone or in combination with any of the other cited references, an interlocking formation in which tenons received in mortises are not concentric with adjacent tenons, whereby an engagement member passing through the tenons has a more secure or friction fit therein, as now recited in independent claim 20 of the present application.

(i) Palley Discloses Barrier Units With Coaxially Aligned Loops

Palley purports to disclose “[b]arrier units and articles made therefrom, particularly constraining bands of high strength and low weight for containing articles, especially in blast resistant container assemblies.” Palley, Abstract.

For example, FIGS. 3A – 3D of Palley are three dimensional views of a constraining band 40, loops 42 forming part of band 40, loops 42 and 42' connected with one another, and an alternate constraining band 40'. Palley, col. 4, lns. 17 – 24. In describing the construction of loops 42 and 42', Palley notes that a “[p]in 43 can be used to connect interleaved, coaxially aligned loops 42 and 42'.” Palley, col. 6, lns. 14 – 15 (Emphasis added).

FIGS. 6 and 7 of Palley are side views of constraining bands 50, which use a soft/flexible pin 55 to connect loops 51, and constraining bands 50', which use a soft/flexible pin 55' to connect loops 51'. In describing the construction of loops 51, Palley notes that “the loops 51 can be coaxially aligned per end and adjacent the loops of the other end for lacing, e.g., like a shoelace.” Palley, col. 6, lns. 37 – 38 (Emphasis added).

FIGS. 10A – 10E are three dimensional view of sub-bands 71 which form part of a hardened aircraft luggage container assembly 70, the container assembly 70 partially assembled with interrupted band 72 wrapped in place, the container assembly 70 partially assembled with sub-bands 73 in place, the container assembly 70 partially assembled with band 78 in place, and

the container assembly 70 with third band 70 oriented for closure of container assembly 70 with a step 77 in place. In describing the construction of assembly 70, Palley notes that a hinge connection is created by subdividing band 72 into a plurality of parts which are used to form loops/knuckles 81, 81', which are spaced and coaxially aligned on each end of band 72. Palley, col. 8, lns. 20 – 23 (Emphasis added).

Thus, Palley does NOT disclose or suggest an interlocking formation that is an alternating tenon and mortise formation, with each mortise being shaped so that a tenon is received therein in an arrangement wherein the received tenon is not concentric with adjacent tenons, whereby an engagement member passing through the tenons has a more secure or friction fit therein, as now recited in amended independent claim 20.

(ii) **Gourriecc Discloses A Bearer Of Objects, Such As Articles, With Supports, Such As Legs Or Columns**

Gourriecc does not compensate for the noted deficiencies in the teachings of the primary Palley reference. Although Gourriecc is not written in English, one website translation of the title of this Dutch application describes the disclosed invention as being a bearer for objects, such as articles, provided with supports, such as legs or columns. A review of the drawings of this application supports this translation, and as such, readily reveals that Gourriecc does not disclose a collapsible container including a plurality of upper panels and a bottom panel, with each panel body including an elongate tubular member along each of the edges of the body with alternating tenons and mortises. Thus, by omission, Gourriecc's drawings do not depict elongate tubular members in which tenons received within mortises are not concentric with adjacent tenons, whereby an engagement member passing through the tenons has a more secure or friction fit therein, as now recited in amended independent claim 20 of the present application.

(iii) **Hugget Discloses A Collapsible Container Formed From A Plurality Of Panels With Castellated Interlocking Formations That Are NOT Described As Alternating Tenon And Mortise Formations, Wherein Tenons Received In Mortises Are Not Concentric With Adjacent Tenons**

Hugget does not compensate for the noted deficiencies in the teachings of Palley. Hugget (the inventor of the present application) discloses a panel for a collapsible container and a collapsible container used in packaging and transportation which is formed with a number of the panels.

Figure 1 of Hugget is a perspective view of the panel 10 for the collapsible container, while Figure 2 is a perspective view of interlocking formations 18 of the panel of Figure 1 releasably interlocked with a second panel using an engagement member 24. The panel 10 is described as including a panel body 12 with castellated interlocking formations 18 on two edges 16 of the panel body 12, thus forming two castellated (“having battlements like a castle”) edges. Each interlocking formation 18 includes a tube 26 secured to the edge of the panel body 12 with an axis of each tube substantially parallel with the edge of the panel body 12. The tube 26 defines an aperture for receiving the engagement member 24 there through.

Nowhere in Hugget are the castellated interlocking formations 18 described as an interlocking formation that is an alternating tenon and mortise formation, with each mortise being shaped so that a tenon is received therein in an arrangement wherein the received tenon is not concentric with adjacent tenons. In fact, contrary to Figure 8 of the present application, in which a small misalignment between the top tubular member 26 and the side tubular member 26 of the adjacent panel is depicted where the reference numeral 26 indicates the tubular member, no such misalignment is depicted in Figure 2 of Hugget. As such, it must be concluded that Figure 2 of Hugget depicts the interlocking formations 18 shown in Figure 2 as being concentric.

Thus, Hugget does NOT disclose or suggest an interlocking formation that is an alternating tenon and mortise formation, with each mortise being shaped so that a tenon is received therein in an arrangement wherein the received tenon is not concentric with adjacent tenons, whereby an engagement member passing through the tenons has a more secure or friction fit therein, as now recited in amended independent claim 20.

(iv) **Eby Discloses An Aluminum Knock-Down Collapsible Container With Inter-Leaving Projecting Leaf Members That Are NOT Described As Not Being Non-Concentric With One Another**

Eby does not compensate for the noted deficiencies in the teachings of Palley. Eby discloses an aluminum knock-down collapsible container with inter-leaving projecting leaf members. Figure 1 of Eby shows a perspective view of the collapsible container. The collapsible container 10 includes a front panel 12, a pair of end panels 14 and a lid 16. The front panel 12 and end panels 14 include a series of projecting leaf members that inter-leave corresponding members on adjacent panels to form an inter-leaved hinged arrangement 18 that receive elongated vertical fasteners or rods 138. Eby, col. 2, lns. 33 – 44.

The remaining figures of Eby illustrate the construction of the various panels used in the container 10 shown in Figure 1. Various pairs of hinges 36,38 and 86,88 are depicted in Figures 2, 9 and 12 of Eby. Nowhere in Eby are the hinges described as interlocking formations with components corresponding to alternating tenon and mortise formations, with each mortise corresponding component being shaped so that a tenon corresponding component is received therein in an arrangement wherein the received tenon corresponding component is not concentric with adjacent tenon corresponding components.

Thus, Eby does NOT disclose or suggest an interlocking formation that is an alternating tenon and mortise formation, with each mortise being shaped so that a tenon is received therein

in an arrangement wherein the received tenon is not concentric with adjacent tenons, whereby an engagement member passing through the tenons has a more secure or friction fit therein, as now recited in amended independent claim 20.

**D. Given That Independent Claim 20 Is Not Obvious Over
The Cited References, The Claims Which Depend From
Claim 20 Are Also Not Obvious Over The Cited References**

In view of the foregoing, it is clear that independent claim 20 is not obvious over the cited references, either alone, or in combination with one or more of the other. And, given that independent claim 20 is not obvious over the cited references, it is clear that remaining claims 22, 24 – 26, 28 – 35, and 37 – 47, which depend from claim 20 are also not obvious over the cited references.

E. Conclusion

In view of the forgoing, it is believed that this application is now in condition for allowance. If any issues remain, the Examiner is urged to contact the undersigned at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Robert A. Molan /
Robert A. Molan
Reg. No. 29,834

RAM:prb
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100